

Notice of Allowability

Application No.

10/603,318

Examiner

Bethany P. Barham

Applicant(s)

CHUAH ET AL.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 07/20/07.
2. ☒ The allowed claim(s) is/are 1-6, 8, 10-35 and 44.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

DETAILED ACTION

Status of the Claims

Receipt of Applicants Request for Continued Examination filed on 07/20/2007 is acknowledged. Claims 1-6, 8, 10-35 and 44 are pending.

CONTINUATION AND REJOINDER

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 07/20/2007 has been entered.

Claims 1-35 directed to an allowable product. Pursuant to the procedures set forth in MPEP § 821.04(b), claim 44, directed to the process of making or using the allowable product, previously withdrawn from consideration as a result of a restriction requirement, claim 44 is hereby rejoined and fully examined for patentability under 37 CFR 1.104. Claims 36-43, directed to the invention(s) of a device (group II) and a method of making the device of group II do not require all the limitations of an allowable product claim, and have NOT been rejoined.

Because a claimed invention previously withdrawn from consideration under 37 CFR 1.142 has been rejoined, **the restriction requirement between groups I and IV as set forth in the Office action mailed on 3/31/2005 is hereby withdrawn.** In view of the withdrawal of the restriction requirement as to the rejoined inventions, applicant(s) are advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Once the restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. See *In re Ziegler*, 443 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

Applicant in their response (08/04/2005) to the Restriction/Election made an election with traverse of group I and **confirmed traversal between groups I and IV and removed traversal from the other groups**. As such groups I and IV have been rejoined and groups II and III are treated as withdrawn without traverse and hereby cancelled.

Response to Amendments and Remarks

Rejections-35 USC § 103: US 5,221,534 in view of US 6,403,070, and further in view of US 5,750,096

Claims 1-6, 8, 10-35 and 44 are amended to claim a cosmetic composition in the form of an anhydrous soft solid, said cosmetic composition comprising...a particulate

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antiperspirant active suspended in said carrier liquid said carrier liquid comprising a mixture of a hydrocarbon oil and an aromatic ester oil in a weight ratio of from 1:2 to 15:1 and said structurant system comprising a di or triblock alkylene/arylene block copolymer and an organic wax in a weight ratio to each other of from 5:1 to 1:30, which is not taught by 5,221,534 in view of US 6,403,070, and further in view of US 5,750,096, which do not teach the very specific ratios and components of the carrier liquid and the structurant system, thereby rendering the rejection moot.

Rejections-35 USC § 103: US 6,403,070 in view of US 6,986,885

Claims 1-6, 8, 10-35 and 44 are amended to claim a cosmetic composition in the form of an anhydrous soft solid, said cosmetic composition comprising...a particulate antiperspirant active suspended in said carrier liquid said carrier liquid comprising a mixture of a hydrocarbon oil and an aromatic ester oil in a weight ratio of from 1:2 to 15:1 and said structurant system comprising a di or triblock alkylene/arylene block copolymer and an organic wax in a weight ratio to each other of from 5:1 to 1:30, which is not taught by US 6,403,070 in view of US 6,986,885, which do not teach the very specific ratios and components of the carrier liquid and the structurant system, thereby rendering the rejection moot.

Reasons for allowance

The following is an examiner's statement of reasons for allowance:

The prior art of record does not teach or suggest a cosmetic composition in the form of an anhydrous soft solid, said cosmetic composition comprising...a particulate antiperspirant active suspended in said carrier liquid said carrier liquid comprising a mixture of a hydrocarbon oil and an aromatic ester oil in a weight ratio of from 1:2 to 15:1 and said structurant system comprising a di or triblock alkylene/arylene block copolymer and an organic wax in a weight ratio to each other of from 5:1 to 1:30. Therefore the claims are allowable over the prior art of record.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Claims 1-6, 8, 10-35 and 44 are allowed.

Correspondence

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bethany P. Barham whose telephone number is 571-272-6175. The examiner can normally be reached on M-F from 8:30am to 5pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Woodward, can be reached on 571-272-8373. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Bethany Barham
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